

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDMUNDO AMPARAN and
KIMBERLY L. AMPARAN,

Plaintiffs,

vs.

No. 1:15-CV-00045 GBW/LAM

MEVLUT BERKAY DEMIR,
DENIZCAN KARADENIZ, and
AVIS RENT A CAR SYSTEM, LLC,
a Delaware Limited Liability Company,

Defendants.

**PLAINTIFFS' MOTION AND MEMORANDUM
FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

Plaintiffs, by and through their attorneys Keleher & McLeod, P.A., and pursuant to Fed. R. Civ. P. 15(a)(2) move the Court for an Order allowing Plaintiffs to file an Amended Complaint. Pursuant to D.N.M.LR-Civ. 15.1, the proposed Amended Complaint is attached as **Exhibit A**. In accordance with Rule 1-007.1(B) NMRA, counsel for Defendant Avis Rent A Car ("ARAC") and Denizcan Karadeniz were contacted for a position regarding this Motion but, having not received a response, Plaintiffs assume the Motion is opposed. To date, Defendant Demir has appeared in this matter.

1. Through initial discovery with Defendant ARAC, Plaintiffs have learned that PV Holding, Corp. is the record owner of motor vehicles at issue in this lawsuit. Plaintiffs have also learned that the car rental location in Page, Arizona is owned by an ARAC licensee, Lake Powell Car Rental Companies. Through this discovery and initial disclosures, Plaintiffs have discovered additional details related to the rental of the motor vehicles at issue in this lawsuit.

2. Plaintiffs seek leave to amend their complaint to include newly discovered factual

allegations, additional defendants, and additional claims. (*See generally* Ex. A.); *see also SEC v. DCI Telecomms., Inc.*, 207 F.R.D. 32, 34 (S.D.N.Y. 2002) (permitting amendment of pleadings long after a party acquires facts necessary to support those claims) (citing authority omitted). The additional defendants are Lake Powell Car Rental Companies and PV Holdings, Corp. (*See generally* Ex. A.) The additional causes of action include claims of negligent training and supervision against ARAC and Lake Powell Car Rental Companies (Counts VI and V), and a claim for mandatory statutory liability against PV Holdings, Corp. (Count VI). (*Id.*)

3. The parties submitted a proposed Joint Status Report and Provisional Discovery Plan [Doc. 15] to the Court on April 3, 2015. While the Court has not yet entered an order adopting the JSR/PDP or entered any case management deadlines in this case, the proposed JSR/PDP suggested a deadline for Plaintiffs to move to amend their complaint of May 15, 2015. Therefore, assuming the Court enters an order adopting the JSR/PDP, Plaintiffs' proposed amendment is timely.

4. Leave to amend shall be freely given "when justice so requires." Fed. R. Civ. P. 15(a)(2). Accordingly, "[t]he purpose of the Rule [15] is to provide litigants 'the maximum opportunity for each claim to be decided on its merits rather than on procedural niceties.'" *Minter v. Prime Equip. Co.*, 451 F.3d 1196, 1204 (10th Cir. Okla. 2006) (citing *Hardin v. Manitowoc-Forsythe Corp.*, 691 F.2d 449, 456 (10th Cir. 1982)).

5. Justice requires that Plaintiffs be allowed to amend their Complaint. Given that this matter is in its infancy, there has been no delay in seeking this amendment.

6. The parties will not be unduly prejudiced if Plaintiffs' Motion is granted. Discovery is just beginning in this case and the Court has not set any deadlines in this matter.

Wherefore, Plaintiffs respectfully request that the Court enter an Order permitting the

Plaintiffs to file their proposed Amended Complaint attached hereto as Exhibit A.

Respectfully submitted,

KELEHER & McLEOD, P.A.

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Attorneys for Plaintiffs

I HEREBY CERTIFY that on May 15, 2015, I
filed the foregoing Notice electronically
through the CM/ECF system, which caused
counsel to be served by electronic means as
more fully reflected on the Notice of
Electronic Filing:

/s/ Christina Muscarella Gooch

Christina Muscarella Gooch